

1 ENVIRONMENTAL AND PUBLIC PROTECTION CABINET

2 Department of Public Protection

3 Office of Insurance

4 Division of Health Insurance Policy and Managed Care

5 (Emergency Amendment)

6 806 KAR 17:555E. ICARE Program requirements.

7 RELATES TO: KRS 304.14-120, 304.14-430 -304.14-450, 304.17A-095 -304.17A-0954, 2006

8 Ky. Acts ch. 252, Part XXIII, secs. 1-8, 13, 22, 42 U.S.C. sec. 1396e

9 STATUTORY AUTHORITY: KRS 304.2-110(1), 2006 Ky. Acts ch.252, Part XXIII, secs. 2(5)

10 and 8(2)

11 NECESSITY, FUNCTION, AND CONFORMITY: KRS 304.2-110(1) authorizes the executive

12 director to promulgate administrative regulations necessary for or as an aid to the effectuation of

13 any provision of the Kentucky Insurance Code as defined in KRS 304.1-010. 2006 Ky. Acts ch.

14 252, Part XXIII, sec. 2(5) requires the office to establish guidelines for determination of

15 preference for employer groups based upon federal poverty level, eligibility criteria, health care

16 incentive payment procedures, program participating insurer and employer reporting

17 requirements, and administrative guidelines for the ICARE Program. 2006 Ky. Acts ch. 252, Part

18 XXIII, sec. 8(1) requires an insurer which offers a health benefit plan to disclose the availability

19 of a health insurance purchasing program as authorized in 42 U.S.C. sec. 1396e to eligible

20 employer groups and the Insurance Coverage, Affordability and Relief to Small Employers

21 Program. This administrative regulation establishes requirements for ICARE Program

1 participating insurers, qualified health benefit plans, disclosure of information, data reporting,
2 and annual review by the office.

3 Section 1. Definitions. (1) "Agent" is defined in KRS 304.9-020(1).

4 (2) "Basic health benefit plan" is defined in KRS 304.17A-005(4).

5 (3) "Consumer-driven health plan" is defined in 2006 Ky. Acts ch. 252, Part XXIII, sec. 1(1).

6 (4) "Eligible employee" is defined in 2006 Ky. Acts ch. 252, Part XXIII, sec. 1(3).

7 (5) "Eligible employer" is defined in 2006 Ky. Acts ch. 252, Part XXIII, sec. 1(2).

8 (6) "Enriched health benefit plan" means a health benefit plan which:

9 (a) Is not a basic or consumer-driven health benefit plan; and

10 (b) Includes all benefits established in KRS Chapter 304 subtitle 17A.

11 (7) "Health benefit plan" is defined in KRS 304.17A-005(22).

12 (8) "Health care incentive payment" means a payment as established in 2006 Ky. Acts ch. 252,
13 Part XXIII, sec. 4(1).

14 (9) "Health risk assessment" is defined 2006 Ky. Acts ch. 252, Part XXIII, sec. 1(4).

15 (10) "ICARE Program" means the Insurance Coverage, Affordability and Relief to Small
16 Employers Program as established in 2006 Ky. Acts ch. 252, Part XXIII, sec. 2(1).

17 (11) "ICARE Program participating insurer" is defined in 2006 Ky. Acts ch. 252, Part XXIII,
18 sec. 1(6).

19 (12) "ICARE Program year" means a one (1) year period of time beginning on an employer's
20 enrollment date in the ICARE Program.

21 (13) "Office" is defined in 2006 Ky. Acts ch. 252, Part XXIII, sec. 1(7).

22 (14) "Qualified health benefit plan" is defined in 2006 Ky. Acts ch. 252, Part XXIII, sec. 1(8).

23 (15) "Small group" is defined in KRS 304.17A-005(42).

Section 2. Health Risk Assessment. ~~[Requirements of an ICARE Program Participating Insurer.~~

~~(1) If an employer discontinues a health benefit plan offered by an ICARE Program participating insurer that is not a qualified health benefit plan and obtains coverage under a qualified health benefit plan offered by the same ICARE Program participating insurer, the insurer shall be limited to adjusting the risk factors in determining the new premium rate for the employer group to the requirements established under KRS 304.17A-0952(5)(b).~~

~~(2)~~ An ICARE Program participating insurer shall:

~~(1)~~~~(a)~~ Within sixty (60) days of receiving notification of a newly-enrolled ICARE Program participating employer by the office, conduct a health risk assessment as established in 2006 Ky. Acts ch. 252, Part XXIII, sec. 3(4) for each eligible employee of the employer; and

~~(2)~~~~(b)~~ Within sixty (60) days of conducting a health risk assessment as established in subsection (1) of this section ~~[paragraph (a) of this subsection]~~, and pursuant to 2006 Ky. Acts ch. 252, Part XXIII, sec 3(4), offer the following:

~~(a)~~~~[1.]~~ A wellness program;

~~(b)~~~~[2.]~~ Case management services; and

~~(c)~~~~[3.]~~ Disease management services.

Section 3. Qualified Health Benefit Plans. (1) All health benefit plans approved by the office for use in the small group or employer-organized association market shall be deemed qualified health benefit plans. ~~[An ICARE Program participating insurer shall notify the office in writing of any health benefit plans previously approved by the office that meet the requirements of 2006 Ky. Acts ch. 252, Part XXIII, secs. 3(2) and 3(4). The notification shall:~~

~~— (a) Include the approved form number of each health benefit plan;~~

~~— (b) Identify each health benefit plan as a:~~

1 ~~—1. Consumer-driven health benefit plan;~~

2 ~~—2. Basic health benefit plan; or~~

3 ~~—3. Enriched health benefit plan; and~~

4 ~~—(c) Include a request that an identified health benefit plan be designated as a qualified health~~
5 ~~benefit plan by the office.]~~

6 (2) If an ICARE Program participating insurer develops a new health benefit plan or amends a
7 previously approved health benefit plan to meet the requirements of 2006 Ky. Acts ch. 252, Part
8 XXIII, secs. 3(2) and 3(4), the insurer shall submit[:

9 ~~(a) Submit~~] for approval by the office, a:

10 (a) [1.] Form filing for each new or amended health benefit plan in accordance with KRS
11 304.14-120(2), 304.14-430 - 304.14-450, and 806 KAR 14:007; and

12 (b) [2.] Rate filing for each new or amended health benefit plan in accordance with KRS
13 304.17A-095, 304.17A-0952, 304.17A-0954 and 806 KAR 17:150, as applicable[; and

14 ~~(b) Include with a filing identified in paragraph (a) of this subsection, a cover letter clearly~~
15 ~~requesting that a new or amended health benefit plan be designated as a qualified health benefit~~
16 ~~plan].~~

17 ~~[(3) If the ICARE Program participating insurer has complied with subsections (1) and (2) of this~~
18 ~~section, the office shall:~~

19 ~~(a) Designate a health benefit plan approved by the office as a qualified health benefit~~
20 ~~plan; and~~

21 ~~(b) Notify the insurer of the office designation.]~~

22 Section 4. Requirements of Disclosure. Pursuant to 2006 Ky. Acts ch. 252, Part XXIII, sec. 8(1),
23 a disclosure shall:

1 (1) Be distributed to an eligible employer by an insurer in written or electronic format;

2 (2) Include information relating to availability of the:

3 (a) Health Insurance Premium Payment (HIPP) Program by stating the following: "The
4 Health Insurance Premium Payment (HIPP) Program is administered by the Department for
5 Medicaid Services and pays for the cost of private health insurance premiums. The Program
6 reimburses individuals or employers for private health insurance payments for individuals who
7 are eligible for Medicaid when it is cost effective. For more information, or to see if you are
8 eligible, contact the Department for Medicaid Services, HIPP Program, 275 East Main Street,
9 Frankfort, Kentucky 40621."; and

10 (b) ICARE Program, which shall include:

11 1. Information relating to an eligible employer and employee;

12 2. Amount of initial health care incentive payment and incremental reduction in
13 rates pursuant to 2006 Ky. Acts ch. 252, Part XXIII, sec. 4(1);

14 3. ~~[A list of qualified health benefit plans designated by the office and offered by~~
15 ~~the insurer;~~

16 4.] Limited enrollment of eligible employers under the ICARE Program; and

17 4. ~~[5.]~~ Office Web site and toll-free telephone number of the ICARE Program;

18 and

19 (3) ~~Be [Beginning on January 1, 2007, and annually thereafter, be]~~ submitted annually to the
20 office for review.

21 Section 5. ICARE Program Data Reporting Requirements. (1)(a) An ~~[No later than January 1,~~
22 ~~2007, an]~~ ICARE Program participating insurer shall designate a contact person to respond to

inquiries of the office relating to the ICARE Program and provide to the office the contact person's:

1. Name;
2. Telephone and fax numbers; and
3. Electronic mail address; and

(b) If the information requested in paragraph (a) of this subsection is changed, the insurer shall notify the office within fifteen (15) days of the date of the change.

(2) No later than the fifteen (15) day of each month ~~[Beginning on January 15, 2007, and monthly thereafter]~~, the office shall report electronically to the designated contact person of an ICARE Program participating insurer as established in subsection (1) of this section, the following information for each newly enrolled and terminated ICARE Program participating employer:

- (a) The ICARE Program identification number;
- (b) Name of employer group; and
- (c) The ICARE Program year effective date.

(3) Each ~~[Beginning on January 1, 2007, and monthly thereafter, each]~~ ICARE Program participating insurer shall collect the following information monthly for each ICARE Program participating employer:

- (a) The ICARE Program identification number;
- (b) Name of employer group;
- (c) Name of the qualified health benefit plan covering eligible employees;
- (d) Month of coverage;
- (e) Average monthly premium of each eligible employee;

1 (f) Number of eligible employees covered under the qualified health benefit plan; and

2 (g) Termination date, if applicable.

3 (4) ~~No[Beginning on January 20, 2007, and no]~~ later than the 20th day of each month
4 ~~[thereafter]~~, an ICARE Program participating insurer shall report to the office information
5 identified in subsection (3) of this section in a format as established in the form, ICARE Report-
6 1.

7 (5) For the calendar year ending December 31, 2007, and annually thereafter, an ICARE
8 Program participating insurer shall submit to the office, a report of the average annual premium
9 of each ICARE Program participating employer. The annual report shall:

10 (a) Include for each ICARE Program participating employer:

11 1. ICARE Program identification number;

12 2. Name of the employer group; and

13 3. Average annual premium paid; and

14 (b) Be submitted in a format as established in the form, ICARE Report-1:

15 1. No later than February 1, for the previous calendar year; and

16 2. In an electronic or written format.

17 Section 6. Annual Office Review of ICARE Books and Records. The office may make or cause
18 to be made an annual review of the books and records of an ICARE Program participating
19 insurer or agent to ensure compliance with:

20 (1) 2006 Ky. Acts ch. 252, Part XXIII, secs. 1 through 8, 806 KAR 17:540, 806 KAR 17:545 and
21 this administrative regulation; and

22 (2) The representations made by the employer on its application for participation in the ICARE
23 Program.

1 Section 7. Effective Date. The requirements, implementation, and enforcement of this emergency
2 regulation shall begin on July 1, 2007.

3 Section 8. Incorporation by Reference. (1) "ICARE Report-1", (12/2006), is incorporated by
4 reference.

5 (2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at
6 the Kentucky Office of Insurance, 215 West Main Street, Frankfort, Kentucky 40601, Monday
7 through Friday, 8 a.m. to 4:30 p.m. Forms may also be obtained on the office Web site at
8 <http://doi.ppr.ky.gov/kentucky/>.

READ AND APPROVED:

Julie Mix McPeak, Executive Director
Kentucky Office of Insurance

Date

Tim LeDonne, Commissioner
Department for Public Protection

Date

Lloyd R. Cress, Deputy Secretary
Environmental and Public Protection Cabinet
For Teresa J. Hill, Secretary
Environmental and Public Protection Cabinet

Date

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Administrative Regulation #: 806 KAR 17:555E

Contact person: Melea Rivera

- (1) Provide a brief summary of:
 - (a) What this administrative regulation does: This administrative regulation establishes requirements of insurers participating in the Insurance Coverage, Affordability and Relief to Small Employers (ICARE) Program, qualified health benefit plans, the disclosure relating to the Health Insurance Premium Payment (HIPP) Program as authorized under 42 U.S.C. sec 1396e and ICARE Program, data reporting, and annual review by the Office of Insurance. Additionally, this administrative regulation establishes the form to be used by insurers for monthly and annual reporting.
 - (b) The necessity of this administrative regulation: This administrative regulation is necessary to establish requirements of ICARE Program participating insurers, a process for designation of qualified health benefit plans, the manner and content of required HIPP and ICARE Program disclosures, the form and content of monthly and annual reports, and the annual review by the Office. This administrative regulation is also necessary to clarify the provisions of 2006 Ky. Acts ch. 252, Part XXIII, secs. 1-8, to prevent differing interpretations among health insurers in the small group market.
 - (c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 304.2-110(1) authorizes the executive director to promulgate administrative regulations necessary for or as an aid to the effectuation of any provision of the Kentucky Insurance Code, as defined by KRS 304.1-010. 2006 Ky. Acts ch. 252, Part XXIII, sec. 2(5) requires the Office to establish “guidelines for determination of preference for employer groups based upon federal poverty level, eligibility criteria, health care incentive payment procedures, program participating insurer and employer reporting requirements, and administrative guidelines for the ICARE Program.” 2006 Ky. Acts 252, Part XXIII, sec. 8 requires the Office in coordination with the Cabinet for Health and Family Services to establish the manner and content of a disclosure of the availability of the HIPP Program as authorized under 42 U.S.C. sec 1396e and ICARE Program.
 - (d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation defines terms and establishes standards for the manner and content of a disclosure of the availability of the HIPP Program as authorized under 42 U.S.C. sec 1396e and the ICARE Program, as required under 2006 Ky. Acts 252, Part XXIII, sec. 8. Additionally this administrative regulation establishes the requirements for qualified health benefit plans, data reporting, ICARE Program participating insurers and annual review pursuant to 2006 Ky. Acts ch. 252, Part XXIII, sec. 2(5) .
- (2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

- (a) How the amendment will change this existing administrative regulation: This amendment removes insurer requirements relating to designating an existing product as a qualified health benefit plan, makes conforming or technical changes to the regulation, and establishes a future effective date for these changes.
 - (b) The necessity of the amendment to this administrative regulation: In order to limit exposure to the high cost of health care in this state, protect human health by offering more affordable health insurance coverage for employees of small group employers in Kentucky, and remove some of the barriers to ICARE Program eligibility, it is necessary to promulgate this emergency regulation and clarify requirements for enrollment in this program.
 - (c) How the amendment conforms to the content of the authorizing statutes: KRS 304.2-110(1) authorizes the executive director to promulgate administrative regulations necessary for or as an aid to the effectuation of any provision of the Kentucky Insurance Code, as defined by KRS 304.1-010. 2006 Ky. Acts ch. 252, Part XXIII, sec. 2(5) requires the Office to establish “guidelines for determination of preference for employer groups based upon federal poverty level, eligibility criteria, health care incentive payment procedures, program participating insurer and employer reporting requirements, and administrative guidelines for the ICARE Program.” 2006 Ky. Acts 252, Part XXIII, sec. 8 requires the Office in coordination with the Cabinet for Health and Family Services to establish the manner and content of a disclosure of the availability of the HIPPP Program as authorized under 42 U.S.C. sec 1396e and ICARE Program.
 - (d) How the amendment will assist in the effective administration of the statutes: This amendment changes an administrative guideline of the ICARE Program by deeming all previously approved health benefit plans approved for marketing in the small group or employer-organized association markets as qualified health benefit plans and responding to recommendations received during the first few months of the ICARE Program’s operation.
- (3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This regulation will directly affect twelve (12) insurers offering health benefit plans in the small group and employer-organized association markets. The regulation will also affect approximately 4,000 small business employers with 20,000 employees that may be eligible for the ICARE Program.
- (4) Provide an assessment of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment, including:
- (a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: The twelve (12) insurers that offer health insurance coverage in the small group and employer-organized association markets will no longer be required to submit plans to be designated as qualified health benefit plans since all health benefit plans marketed to small groups and employer-organized associations will be deemed ICARE qualified plans. This may increase the number of employers who qualify for the ICARE Program because all health

- benefit plans offered in the small group and employer-organized association market will be deemed ICARE qualified plans.
- (b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The amendment to this administrative regulation will not add additional costs relating to an insurer's routine operating expenses.
 - (c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The insurers will be in compliance with 2006 Ky. Acts 252, Part XXIII, secs.1 through 8 and this administrative regulation.
- (5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:
- (a) Initially: Preliminary estimates of administrative costs of the ICARE Program are projected to be \$145,670 for fiscal year 2006-2007 for the Office of Insurance.
 - (b) On a continuing basis: Preliminary estimates of administrative costs of the ICARE Program are projected to be \$161,550 for fiscal year 2007-2008 for the Office of Insurance. A total of \$20,000,000 has been allocated from the General Fund for the ICARE Program.
- (6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation? The source of funding to be used for the implementation and enforcement of this administrative regulation will be the budget of the Office of Insurance. A total of \$20,000,000 has been allocated from the General Fund for the ICARE Program.
- (7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: This administrative regulation will not require an increase in Office of Insurance fees or funding.
- (8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation does not directly or indirectly increase any fees charged by the Office of Insurance.
- (9) TIERING: Is tiering applied? (Explain why tiering was or was not used) No. Tiering is not applied because this administrative regulation applies equally to all insurers offering a health benefit plan in the small group market.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Regulation No.806 KAR 17:555E

Contact Person: Melea Rivera

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)?

Yes X No

If yes, complete questions 2-4.

2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation?

The Kentucky Office of Insurance is promulgating this administrative regulation relating to the Insurance Coverage, Affordability and Relief to Small Employers (ICARE) Program. The Kentucky Office of Insurance is the only state or local government impacted by this administrative regulation.

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation.

2006 Ky. Acts ch. 252, Part XXIII, sec. 8 requires the Office to establish by administrative regulation the manner and content of a disclosure by Insurers, offering health insurance coverage in the small group and employer-organized association markets, relating to availability of the Health Insurance Purchasing Program as authorized under 42 U.S.C. sec 1396e and the ICARE Program.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year?

This administrative regulation will not generate revenue for state or local governments.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years?

This administrative regulation will not generate revenue for state or local governments.

(c) How much will it cost to administer this program for the first year?

The Office of Insurance has estimated the costs of administering this administrative regulation to be \$145,670 for the fiscal year 2006-2007.

(d) How much will it cost to administer this program for subsequent years?

The Office of Insurance has estimated the costs of administering this administrative regulation for subsequent fiscal year to be \$161,550.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): Not applicable.

Expenditures (+/-): Not applicable.

Other Explanation:

DETAILED SUMMARY of INCORPORATED MATERIAL

806 KAR 17:555, ICARE Program requirements.

Contact person: Melea Rivera

(1) 806 KAR 17:555 incorporates the (12/2006) version of “ICARE Report-1”, which is the reporting form insurers will use to submit monthly and annual reports to verify that eligible employers have paid the insurance premium and qualify for the monthly health care incentive payment from the ICARE Program.

(2) The total number of pages that the Office of Insurance has incorporated by reference is four (4).